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09/921,132	08/03/2001	Harushige Yamamoto	NIL-166	6416

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EXAMINER

GRAHAM, ANDREW R

ART UNIT PAPER NUMBER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/921,132
Filing Date: August 03, 2001
Appellant(s): YAMAMOTO, HARUSHIGE

Ronald P. Kananen

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 16, 2004.

(1) *Real Party in Interest*

Art Unit: 2644

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims s 1, 3-6, and 9 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,448,757

HIRATA

9-1995

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3 to 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirata. This rejection is set forth in a prior Office Action, mailed on November 18, 2003.

(11) *Response to Argument*

On page 7, lines 10 to 24, the appellant has argued that "in contrast to the present invention, the Hirata reference fails to disclose, teach or suggest a plug transmitter able to transmit an audio signal inputted from a portable audio device as a radio wave in a receiving frequency band, as is recited in claim 1 of the present

Art Unit: 2644

invention". The appellant's argument is not persuasive because as disclosed in Hirata reference (see col. 3, lines 13 to 15), the modulator modulates the audio signal to radio frequency signal (the composite signal), so as to be received by the FM tuner 5. These teachings clearly show that the transmitter of Hirata reference transmits an audio signal as a radio wave in a receiving frequency band.

On page 7, line 25 to page 8, line 4, the appellant has argued that "the invention disclosed in Hirata serves only to modulate signals inputted from a reproducing device, and does not employ the use of an RF transmission circuit for transmitting modulated signals as radio waves for reception in a receiving frequency band by an automobile's radio tuner". The appellant's argument is not persuasive because as described above, the modulated signals in Hirata reference are being transmitted as radio waves and are receipted in a receiving frequency band by an automobile's radio tuner.

On page 8, lines 5 to 28, the appellant has argued that "claim 1 of the present invention explicitly recites 'wherein said plug transmitter transmits an audio signal from the portable audio device as a radio wave in a receiving frequency band of said radio, and said radio receives the radio wave from said plug transmitter' (See lines 8-13, emphasis added). Such language clearly describes transmitting or propagating radio waves through the air for reception in a receiving frequency band by an automobile's radio tuner". The examiner disagrees with the appellant because "wherein said plug transmitter transmits an audio signal from the portable audio device as a radio wave in a receiving frequency band of said radio, and said radio receives the radio wave from said

plug transmitter " does not describe transmitting or propagating radio waves through the air for reception. It is read as through the air (wireless) or through the cable.

On page 8, line 29 to page 9, line 11, the appellant has argued that "the modulation system of Hirata is disclosed as being connected via 'a grounding cord 6b, and a power supply cord 6c', and not via a cigar lighter socket. The examiner agree with the appellant that a power supply cord 6c is connected to the modulation system, however, as shown in fig. 1, one side of 6c is connected to the modulation system and the other side is inherently connected to a cigar lighter socket to receive power.

On page 9, lines 13 to 18, the appellant has argued, "claim 3 is multiply-dependent upon independent claim 1, discussed supra, and dependent claim 2, indicated by the examiner as containing allowable subject matter. Thus, at least to the extent it depends upon allowable claim 2, claim 3 represents allowable subject matter. The appellant's argument is not persuasive because since claim 3 is a multiple dependent claim, which depends on 1 or 2, claim 3 is allowable when it depends on claim 2 and as described above, it is not allowable when it depends on claim 1.

On page 9, line 19 to page 10, line 6, the appellant has argued "the constant voltage output circuit of the present invention is constructed so as to supply 3 to 5 V of constant voltage to the portable audio device, effectively allowing the plug transmitter to double as a power adapter". The appellant's argument is not persuasive because such limitations cannot be found in the claim 3. In addition, the appellant has argued, "Hirata fails to disclose, teach or suggest a constant voltage output circuit arranged in a plug transmitter such that electric power can be supplied to a portable audio device

Art Unit: 2644

connected thereto". The appellant's argument is not persuasive because 9a, 9c and 9d of Hirata reference does disclose a constant voltage output circuit arranged in a plug transmitter such that electric power can be supplied to a portable audio device connected thereto.

On page 10, lines 8 to 25, the appellant has argued that "because independent claim 4 of the present invention recited a 'plug transmitter... plugged into a cigar lighter socket' and the ability to 'transmit [] said audio signal as a radio wave in a receiving frequency band', in much the same manner as is recited in claim 1, a rejection of claim 4 has not been established for essentially the same reasons as set forth above with respect to the rejection of claim 1". The appellant's argument is not persuasive because as described above, as described above, Hirata reference does disclose "a 'plug transmitter... plugged into a cigar lighter socket' and the ability to 'transmit said audio signal as a radio wave in a receiving frequency band' ".

On page 10, line 27 to page 11, line 9, the appellant has argued that "claim 9 is multiply-dependent upon claims 4-6, discussed supra, and dependent claim 7, indicated by the examiner as containing allowable subject matter. Thus, at least to the extent it depends upon allowable claim 7, claim 9 represents allowable subject matter". The appellant's argument is not persuasive because since claim 9 is a multiple dependent claim, which depends on 4, 5, 6 or 7, claim 9 is allowable when it depends on claim 7 and as described above, it is not allowable when it depends on claim 4, 5 or 6. In addition, the appellant has argued that "because claim 9 recited a 'constant voltage output circuit' for providing converted power to a 'portable audio device', in much the

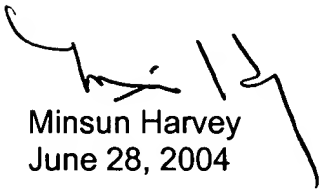
Art Unit: 2644

same manner as is recited in claim 3, a rejection of claim 9 has not been established for essentially the same reasons as set forth above with respect to the rejection of claim 3".

The appellant's argument is not persuasive because as described above, Hirata reference does disclose such teachings.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Minsun Harvey
June 28, 2004

Conferees
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SUPERVISORY PATENT EXAMINER



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